

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DAVID LENIHAN and JAN LENIHAN,

Plaintiffs,

v.

COMPUTER ASSOCIATES  
INTERNATIONAL, INC.,

Defendant.

C.A. No. 04-11701-DPW

**DEFENDANT'S MOTION TO TRANSFER THIS ACTION TO THE UNITED STATES  
DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK**

The defendant, Computer Associates International, Inc. ("Computer Associates"), moves this Court to transfer this action to the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. § 1406(a) or, in the alternative, 28 U.S.C. § 1404(a). As grounds for this motion, Computer Associates states that a forum selection clause governing this dispute requires that this action be brought in a state or federal court in New York. Further, Computer Associates's headquarters is in Islandia, New York, the key documents are located in Islandia, the key witnesses live in New York, and New York law applies to most of the claims.

In support of its motion, Computer Associates submits an accompanying memorandum of law and an affidavit of Alexander G. Arato (Vice President, Senior Counsel of Computer Associates). A proposed order is attached at Tab A.

**Request for Oral Argument**

Pursuant to Local Rule 7.1(D), Computer Associates requests a hearing on this motion.

Respectfully submitted,  
COMPUTER ASSOCIATES  
INTERNATIONAL, INC.

By its attorneys,

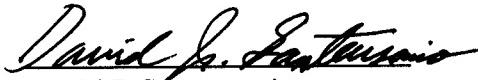
HOLLAND & KNIGHT LLP

  
Paul G. Lannon, Jr. (BBO # 565404)  
David J. Santeusanio (BBO # 641270)  
10 St. James Avenue  
Boston, Massachusetts 02116  
(617) 523-2700

Dated: August 30, 2004

**Local Rule 7.1(A)(2) Certificate**

Pursuant to Local Rule 7.1(A)(2), I certify that I have conferred with counsel for the plaintiffs, Peter H. Noone, Esq., Avery, Dooley, Post & Avery, LLP, 90 Concord Avenue, Belmont, Massachusetts, in an attempt to narrow or resolve the issues presented by this motion to transfer this action.

  
David J. Santeusanio

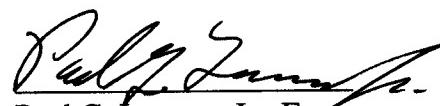
UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2004, I electronically filed this Computer Associates International, Inc.'s Motion to Transfer this Action to the United States District Court for the Eastern District of New York with the Clerk of Court using the CM/EMF system, which will send notification of such filing to the following attorneys of record:

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